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THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

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NATHAN MYERS,

Plaintiff,

v.

BENJAMIN TUFUGA; TRAVIS  
WILLINGER; JUSTIN GRAY; and SEAN  
SPARKS,

Defendants.

**MEMORANDUM DECISION AND  
ORDER DENYING MOTION TO  
PROCEED IN FORMA PAUPERIS**

Case No. 4:20-cv-00113-DN

District Judge David Nuffer

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Plaintiff seeks leave to appeal *in forma pauperis*<sup>1</sup> the Memorandum Decision and Order<sup>2</sup> and Judgment<sup>3</sup> entered on March 11, 2022.

“An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.”<sup>4</sup> “The Supreme Court . . . has held that an appeal is taken under 28 U.S.C. § 1915 in objective good faith when it presents ‘any issue not frivolous.’”<sup>5</sup> “[T]he points on which the appeal is taken [must be] reasonably arguable.”<sup>6</sup>

This case was marred by Plaintiff’s multiple failures to comply with deadlines; his failures to respond to the motions that lead to the dismissal of his claims; his arguments which

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<sup>1</sup> Motion to Proceed In Forma Pauperis (“Motion”), [docket no. 84](#), filed under seal Apr. 12, 2022; Notice of Appeal, [docket no. 81](#), filed Apr. 5, 2022.

<sup>2</sup> Memorandum Decision and Order Granting Defendants’ Motion for Summary Judgment (“Memorandum Decision and Order”), [docket no. 79](#), filed Mar. 11, 2022.

<sup>3</sup> Judgment in a Civil Case (“Judgment”), [docket no. 80](#), filed Mar. 11, 2022.

<sup>4</sup> 28 U.S.C. § 1915(a)(3).

<sup>5</sup> *Menefee v. Werholtz*, 368 Fed. App’x 879, 884 (10th Cir. 2010) (quoting *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962)).

<sup>6</sup> *Sejeck v. Singer Mfg. Co.*, 113 F. Supp. 281, 282 (D. N.J. 1953).

made no sense when he did make filings; and his failure to challenge the undisputed material facts in summary judgment which showed that the defendant officers had a legitimate basis for the stopping and the searching Plaintiff's vehicle.

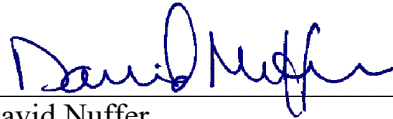
The defendant officers undisputedly did not violate Plaintiff's constitutional rights and are entitled to qualified immunity on Plaintiff's claims.<sup>7</sup> Plaintiff cannot "show the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues [he would] raise[] on appeal."<sup>8</sup> It cannot be said that there is any merit or that Plaintiff's appeal is taken in objective good faith. The issues are not reasonably arguable. Therefore, it is certified that Plaintiff's appeal is not taken in good faith.

**ORDER**

IT IS HEREBY ORDERED that Plaintiff's Motion<sup>9</sup> is DENIED.

Signed April 20, 2022.

BY THE COURT

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer  
United States District Judge

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<sup>7</sup> Memorandum Decision and Order at 10-21.

<sup>8</sup> *Rolland v. Primesource Staffing, LLC*, 497 F.3d 1077, 1079 (10th Cir. 2007).

<sup>9</sup> [Docket no. 84](#), filed under seal Apr. 12, 2022.